

APPLICANT:
American Legion Slate Ridge – Post 182
and Commander Robert McFadden

REQUEST: A variance to allow an
institutional sign within the required
front yard setback in the AG District

HEARING DATE: February 12, 2007

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5584

ZONING HEARING EXAMINER'S DECISION

APPLICANT: American Legion Slate Ridge – Post 182

CO-APPLICANT: Commander Robert McFadden

LOCATION: 2217 Whiteford Road, Whiteford
Tax Map: 11 / Grid: 1C / Parcel: 138
Fifth (5th) Election District

ZONING: AG / Agricultural

REQUEST: A variance, pursuant to Section 219-12D of the Harford County Code to allow an
institutional sign within the required 17 foot front yard setback (1 foot setback proposed)
in the Agricultural District.

TESTIMONY AND EVIDENCE OF RECORD:

For the Applicant appeared Robert McFadden, the Commander for the past eight years of the American Legion Slate Ridge – Post 182. Mr. McFadden described the Applicant's property as a 4.13 acre parcel improved by the main American Legion building and a pavilion. The property is also improved by two signs, a temporary sign, and a permanent sign located approximately 1 foot from the front lot line along Maryland Route 136.

Mr. McFadden described the topography of the parcel as sloping very sharply downward from Route 136 to a flat portion on which the Legion Hall is located.

Mr. McFadden explained that the temporary sign now on the property will be removed if the Applicant is allowed to go forward with its plan. The Applicant proposes that the existing permanent sign be replaced with a new sign, having larger dimensions of approximately 5-1/2 feet by 8 feet.. While the new sign will be substantially larger than the present sign, it will still be allowed by Code. However, the new sign is proposed to be located partially on the existing sign base which is in violation of applicable setbacks. The existing sign is approximately 1 foot off the front yard lot line, whereas the applicable required setback is 17 feet.

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Mr. McFadden testified that the sign was originally constructed by his predecessors without a permit. Mr. McFadden only came to realize that the existing sign was in violation when he attempted to secure a permit for the reconstructed sign.

Mr. McFadden indicated that the Applicant's plans are to make the existing base larger, by expanding it toward the Legion Hall. The pillars on top of the base would then be removed and rebuilt. When complete, the height of the sign will be approximately as it is today, although the sign will be somewhat wider.

Mr. McFadden explained that the new sign would be more secure than the present one. It will be built so as to be more resistant to vandalism and the weather.

Mr. McFadden described the front of the parcel along Route 136 as very sharply sloping downwards. Because of this slope, if the sign were set back to a point outside of the front yard setback, it would virtually be invisible to passing motorists. Mr. McFadden described the drop off from Route 136 to the flat parking area surrounding the main building as an approximately 7-1/2 foot drop. Mr. McFadden reiterated that the new sign would be no closer to Route 136 than is the present sign.

Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune stated that if the sign were set back to a point outside of the front 17' required setback, the sign would be virtually invisible to passing motorists because of the sharp grade.

Mr. McClune indicated that the Department had received no complaints about the existing sign. He does not believe that the existing sign, or enlarged sign, will constitute a sight problem. The Staff Report notes:

"The required setback for an institutional sign in the Agricultural District is 17-feet. The presence of the steep slope along Whiteford Road poses a practical difficulty for the Applicants. If the sign were located at the required setback, the top of the sign would be approximately 3-feet below Whiteford Road. The sign would not be visible to passing motorists unless it was erected on a pole or large supporting structure."

Mr. McClune indicated that the State Highway Administration is not opposed to the requested variance.

There was no evidence or testimony given in opposition.

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APPLICABLE LAW:

Harford County Sign Code at Section 219-12D states:

“Permanent institutional signs. Signs of a permanent nature setting forth the name of places of worship, service clubs, civic organization, public or service centers, public institutions, schools or other similar uses shall be permitted if the setback is 1/3 of the required building setback of the district. Illumination shall be in accordance with the restrictions set forth in Section 219-11. Such signs shall not exceed 54 square feet for the overall structure and shall not exceed 6 feet in overall height.”

Section 219-17 of the Harford County Sign Code states:

“The Board may grant a variance from the provisions of this Chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A review of the photographs of the subject property, in the file marked as Attachment 8, reveal a nicely maintained parcel improved by the American Legion Hall. As is obvious in the photographs and as described by Commander McFadden, the Legion Hall itself, and surrounding parking, is located at a significantly lower elevation than is the travel portion of Maryland Route 136. According to a diagram filed by the Applicant, the existing sign is setback approximately 15 feet from the travel portion of Maryland Route 136, but is only about 1 foot from the front lot line. The Legion Hall itself is about 77 feet from the front yard lot line. Clearly, as stated by Mr. McFadden, the Hall is at least 7-1/2 feet below the elevation and travel portion of Maryland Route 136.

Because of this relatively sharp drop in elevation, the existing sign, as can be seen by photograph marked as Attachment 8, is located at a point where it is most easily visible to passing motorists. Any farther back, i.e., toward the Legion Hall, would leave it at a much lower elevation. Because of Sign Code height limitations, the sign at any other location could not be significantly higher than proposed. Because it would be situated at a lower elevation, a relocated sign would be virtually invisible to any passing motorist.

According to Mr. McClune, the sign does not pose a problem with visibility. His observation is verified by a review of Attachment 8. Indeed, the sign appears to be located at a point which provided maximum visibility, but appears to cause no adverse impact to motorists on Route 136.

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The Applicant desires to remove the temporary sign on the property and use the new sign, which would have larger dimensions than the existing sign, to advertise Legion functions. Accordingly, the requested variance would have the additional benefit of removing a temporary installation which acts to clutter the Applicant's property and is, potentially, a distraction to passing motorists.

It is accordingly found that the Applicant suffers a practical difficulty due to the irregular shape of its lot in that it slopes very drastically from the front, Route 136 side, to the rear. A sign advertising the location of the Applicant and various functions is, if not essential, certainly important to and typical of such an institution. It is found that because of the sharply sloping lot, a sign in a location other than that as proposed would not be function as intended. Only in the location proposed would such a sign be fully visible to passing motorists.

It is further found that there would be no adverse impact to any adjoining neighbor or property if the variance were granted, and the variance can be granted without impairment of the purpose or provisions of the Sign Code.

CONCLUSION:

It is accordingly recommended that the requested variance be granted, subject to the following conditions:

1. The Applicant shall obtain all necessary permits and inspections for the sign.
2. The new sign shall not extend any closer toward Whiteford Road (Route 136) than the existing sign.
3. The portable sign shall be removed from the premises.
4. In the event Whiteford Road is widened along any part of the frontage of the Applicant, the Applicant shall be required to remove the sign or, in the alternative, file a new application requesting a modification of the relief granted herein.

Date: March 19, 2007

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on APRIL 16, 2007.